

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed June 23, 2006 and Advisory Action mailed August 29, 2006. At the time of the Final Office Action, Claims 2-17 were pending in this Application. Claims 10-17 were previously withdrawn due to an election/restriction requirement. Claim 1 was previously cancelled without prejudice or disclaimer. Claims 2-9 stand rejected. Claim 3 has been amended and Claim 6 has been cancelled without prejudice. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 2-5 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent JP 57-149085 filed by Oki ("Oki") in view of German Patent DE 19901530 filed by Biotronik ("Biotronik"). Applicants respectfully traverse and submit the cited art combination, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

Claims 6-7 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oki and Biotronik in view of PCT Publication Number WO 00/08353 filed by Frank et al. ("Frank"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the

reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Applicant amended Claim 3 to include the limitation that the minimum distance between adjacent cutouts of two rows can be as low as 0.3 times the wall thickness of the cylindrical hollow body of the tubular spring. This limitation is disclosed in the original specification in paragraph [0034]. Frank does not disclose such a distance because the tubular spring according to Frank is manufactured by stamping which allows only a minimum distance of 1 time the wall thickness.

Moreover, BIOTRONIK does not disclose a suitable filler which allows for a defined shaping of the beam/jet as BIOTRONIK merely discloses a cooling mechanism for cooling the object to be cutted.

Therefore, Applicants believe that the amended claims are not obvious in light of the cited prior art. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Request for Continued Examination

Applicants enclose a Request for Continued Examination Transmittal, and hereby authorize the Commissioner to charge the appropriate filing fee required under 37 C.F.R. §1.17(e) to Deposit Account No. 50-2148 of Baker Botts L.L.P.

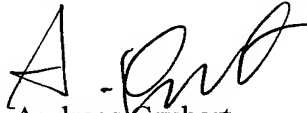
CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Andreas Grubert at 512.322.2545.

Respectfully submitted,
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Date: September 22, 2006

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